

ant in operating travelling cranes in connection with the work being performed in said arsenal by the defendant on or about December 22, 1952, the aforesaid Jeremiah C. Crowley, who was then rightfully upon the premises and engaged in the performance of his work of repairing windows, was struck by one of said cranes and severely injured, and as a result of said injuries he died.

6. The aforesaid Jeremiah C. Crowley left surviving him as sole heirs and next of kin, his wife, Kathleen F. Crowley, and two minor children, James Crowley and Paul Crowley, who were wholly dependent upon his earnings for support at the time of said injury and death. The said Kathleen F. Crowley is the duly qualified and acting administratrix of the estate of said deceased under appointment of the Probate Court for the County of Plymouth, Massachusetts. The plaintiff brings this action to enforce the liability of said defendant for said injury and death pursuant to the provisions of said General Laws, Chap. 152, Section 15, having paid compensation to and for the benefit of the aforesaid dependants of said deceased on account of his injury and death in accordance with the provisions of said Chapter 152.

Wherefore the plaintiff demands judgment for the sum of \$200,000.00 and costs, together with reasonable attorneys fees.

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#### DEFENDANT'S ANSWER

The defendant denies each and every allegation in the Complaint and says that:

1. The damages alleged by the plaintiff were caused in whole or in part by the negligence of Jeremiah C. Crowley otherwise known as Christopher Jeremiah Crowley, for whose injuries and death the plaintiff has brought this action.

2. The aforementioned Jeremiah C. Crowley was a trespasser upon the premises where the damages complained of occurred.

3. The aforementioned Jeremiah C. Crowley assumed the risk of incurring the injuries allegedly suffered.

4. The injuries alleged by the plaintiff were caused in whole or in part by the negligence of fellow servants of the aforementioned Jeremiah C. Crowley who were employees of the P. J. Spillane Company, and who were not employees of the United States Government.

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MOTION TO JOIN KATHLEEN F. CROWLEY, ADMINISTRATRIX OF  
ESTATE OF JEREMIAH C. CROWLEY AS PARTY PLAINTIFF

The plaintiff, Massachusetts Bonding and Insurance Company, says that Kathleen F. Crowley of Abington, Plymouth County, Massachusetts, presently residing in Yarmouth, Nova Scotia, Canada, is the duly qualified and acting Administratrix of the Estate of Jeremiah C. Crowley, deceased, intestate, under appointment by the Probate Court for said, Plymouth County, and, as such, she has an interest in this action brought by the plaintiff for the injuries to and death of said Jeremiah C. Crowley, as provided by General Laws Chapter 152 Section 15.

Wherefore the plaintiff moves that said Kathleen F. Crowley, Administratrix as aforesaid, be joined as party plaintiff in this action.

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Excerpts From Transcript

[162] [Discussion off the record.]

Mr. SULLIVAN. I think, to save the Court's time, it might be appropriate for me to raise the question at this time. At some point the government will request the Court to rule as a matter of law that the ceiling on the Massachusetts statute is applicable to an action brought under the Federal Tort Claims Act and the government would like to be heard on that point.

The COURT. That, I assume, can be dealt with after [163] all the evidence is in.